### Colorado Department of Agriculture May 15, 2012

### Noxious Weed Act Compliance & Enforcement Webinar

#### In General

- Voluntary compliance is the goal
  - Information
  - Education
  - Resources
  - Enforcement as last resort
- The Act provides local entities a number of tools for enforcement, if/when it becomes necessary

## County commissioners & municipal governing bodies

- Local governing entities:
  - Shall adopt a noxious weed management plan for all of the unincorporated lands within the county, or for all lands within the territorial limits of the municipality

35-5.5-105

35-5.5-106

## County commissioners & municipal governing bodies

Local governing entities: "may adopt and provide for the enforcement of such ordinances, resolutions, rules, and other regulations as may be necessary and proper to enforce said plan and otherwise provide for the management of noxious weeds within the [county or municipality]"

# County commissioners & municipal governing bodies

- May devise their own approach that best suits their residents
- If they decide not to create their own procedures, they may use those in Section 108.5 and 109

35-5.5-105

35-5.5-106

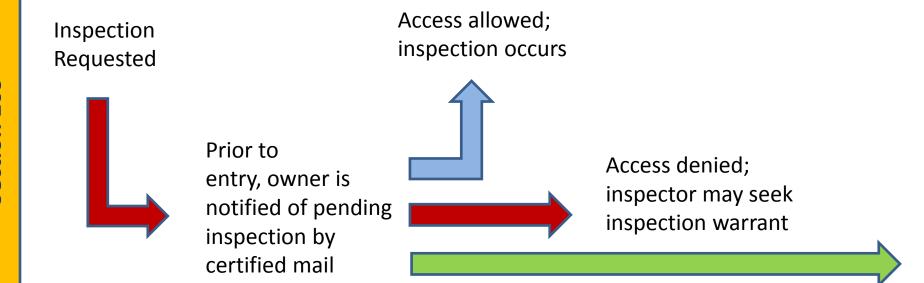
### Origin of sections 109 and 108.5

- Section 109 originally applied to all noxious weeds; now used for populations of List B species <u>not</u> designated for eradication, and all List C species
  - Came from CRS 35-5
- Was complemented by addition of CRS 35-5.5-108.5 in 2003 amendments to the Act
  - More specific and time-sensitive

# Original local entity enforcement process

- Access is allowed to inspect if at least one below is present:
- 1. Landowner request
- 2. Neighbor report and request for inspection
- 3. Visual observation from public ROW by authorized agent of local governing entity

Inspection Requested



#### **Receipt of notification**

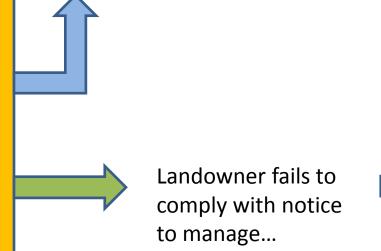
Within 10 days after receipt of notification

Notification of presence of noxious weeds; advise to manage; specify best available control methods ("notice to manage")



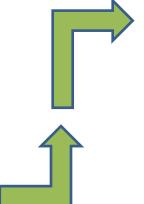
Landowner shall either:

- 1. Comply
- 2. Submit a plan; or
- 3. Request arbitration



Landowner

complies



Local entity has authority to:

- provide for management via local ordinance; and
- assess the costs with lien against property
- (20% cost limit for inspection and other incidental costs)

#### However...

Local entity must apply same or greater management measures to any owned or administered public land or ROW adjacent to subject property; or it cannot require the same from the landowner

# Revised local entity enforcement process

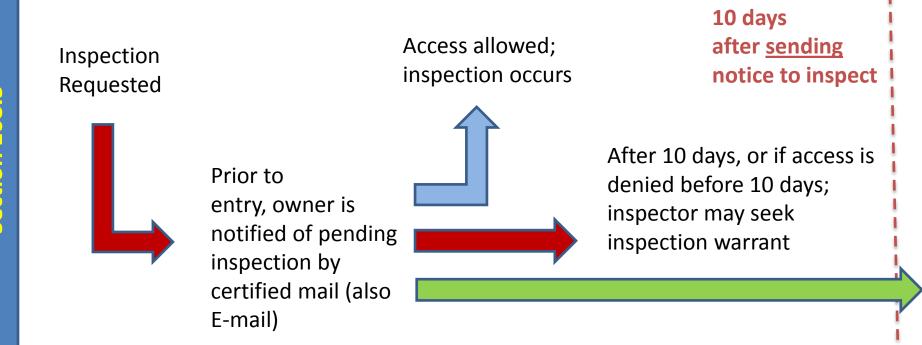
- A modified section 109
- Pertains to List A species and populations of List B species designated for eradication

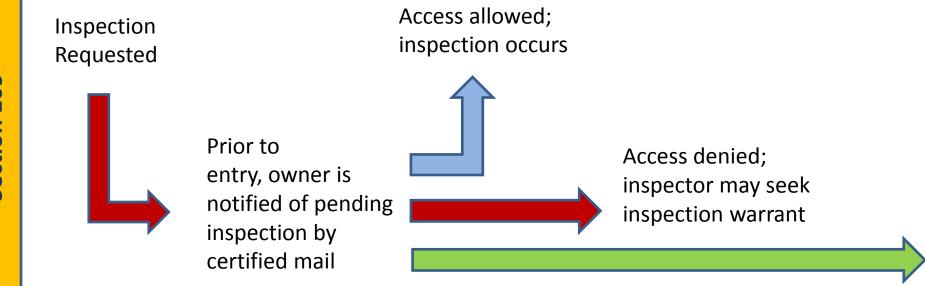
**35-5.5-108.5** 

# Duties of affected landowners or occupants

Allow access to inspect, if

- 1. The landowner has requested it, or
- 2. A neighboring landowner suspects noxious weeds and reports it, or
- 3. An agent of the local entity or commissioner has made visual observation from public ROW





### Within 5 days of mailing notice to eradicate:



Landowner shall either:

- 1. Comply; or
- 2. Submit an acceptable plan

Notification of presence of noxious weeds; require to eradicate; specify best available control methods ("notice to eradicate")

#### **Receipt of notification**

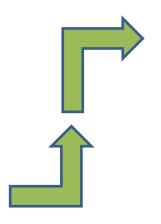
Notification of presence of noxious weeds; advise to manage; specify best available control methods ("notice to manage")

10 days after receipt of notice to manage:

Landowner shall either:

- 1. Comply
- 2. Submit a plan; or
- 3. Request arbitration

Landowner fails to comply with notice to eradicate...



Local entity shall:

- provide for and complete eradication; and
- assess the costs
- (up to 100% of inspection and all other incidental costs)

complies

Section 109

Landowner

Landowner fails to comply with notice to manage...



Local entity has authority to:

- provide for management via local ordinance; and
- assess the costs with lien against property
- (20% cost limit for inspection and other incidental costs)

### Again,

- No local governing body shall provide for or compel the eradication of list A species and populations of list B species ...
- without first applying the same measures to any land or rights-of-way owned or administered by the local governing body that are adjacent to the property."

### Questions?



#### Thank you!

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